UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/C.12/2000/SR.59
21 November 2000

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fourth session

SUMMARY RECORD OF THE 59th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 14 November 2000, at 3 p.m.

Chairperson: Mrs. BONOAN-DANDAN

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Third periodic report of Portugal (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.00-45804 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Third periodic report of Portugal (E/1994/104/Add.20; E/C.12/Q/POR/1; written replies to the list of issues prepared by the Government of Portugal (document without a reference number); HRI/CORE/1/Add.20) (continued)

1. At the invitation of the Chairperson, the members of the delegation of Portugal resumed their places at the Committee table.

2. The CHAIRPERSON invited members of the Committee and the delegation of Portugal to continue their discussion of questions 11 to 16 of the list of issues relating to articles 6 and 7 of the Covenant.

3. Mr. CEVILLE said he would like to raise an issue not included in the list. According to NGO reports, many children under 15 years of age were working illegally in Portugal, especially in the north of the country. Could the delegation comment on those reports?

4. Mrs. JIMÉNEZ BUTRAGUEÑO said that the written replies to number 14 of the list of issues gave statistics on employment in various population sectors, whereas the Committee had asked for statistics on unemployment, disaggregated by economic sector, gender and age. She was particularly interested in unemployment among those aged 45 and above.

5. Mr. DOS SANTOS PAIS (Portugal), providing answers to questions raised at the 58th meeting, said that over the past 15 years the courts had handed down a total of six decisions on issues covered by the Covenant: five on article 8 and one on article 13. That figure related exclusively to decisions of the Constitutional Court, the Supreme Court and the Lisbon Court of Appeal, but lower courts followed the same general lines in their rulings.

6. The delegation had also found that seven of the legal opinions issued by the Office of the Attorney-General in response to questions on legal matters from Government officials and members of Parliament related to issues under the Covenant. Such opinions were binding on Government agencies and ensured the uniformity of their policies and actions.

7. Consultations were currently being held among governmental agencies on the ratification of International Labour Organization (ILO) Convention No. 118: Equality of Treatment (Social Security), 1962, which, it appeared, would pose no problems, primarily owing to the strict European regulations on such matters, with which Portugal complied. He had sought further information on why Portugal had not ratified ILO Convention No. 107: Indigenous and Tribal Populations, 1957. As the delegation had stated earlier, since the end of the colonial period, Portugal no longer had indigenous populations, and in bilateral discussions, ILO had

urged it to denounce both ILO Convention No. 107 and Convention No. 104: Abolition of Penal Sanctions (Indigenous Workers), 1955. Convention No. 169: Indigenous and Tribal Peoples, 1989, was unlikely to be ratified, for similar reasons.

8. Ms. ALBUQUERQUE (Portugal) said that in its funding of international cooperation Portugal focused on such values as solidarity, peace, promotion of democratic institutions, the rule of law, respect for human rights, sustainable economic development and environmental protection. In the past, support had been given for educational activities and the health sector, particularly reproductive health; for enhancing the rule of law, good governance and efficient administrative practices; for the development of the private sector; and for the restructuring of legal systems, including technical and legal assistance to judges and public prosecutors. Twenty-six per cent of the aid provided by Portugal was directed to infrastructure and social services. Her country also provided support for NGOs, debt relief and environmental protection.

9. Mr. DOS SANTOS PAIS (Portugal) said that the Social Employment Market had served as a predominant theme during Portugal's presidency of the European Union. Concerning the impact of measures to promote greater flexibility in labour relations, legislation had been adopted in the early 1980s on the dismissal of workers who failed to keep pace with technological advances, but very strict general criteria governed their dismissal. The current Government, like the one before it, sought to resolve employer/employee disputes through a strategic dialogue aimed at improving employment opportunities. That direct approach had largely minimized the adverse impact of increased flexibility in labour relations.

10. On relations with the International Monetary Fund (IMF), in the late 1970s, Portugal's budding democracy had solicited aid from the IMF in restructuring its economy. However, as a member of the European Union Portugal was now subject to very strict criteria for governmental intervention in the economy, and was no longer borrowing from the IMF: indeed, it was lending to other countries in the context of international cooperation.

11. Concerning migrant workers abroad, around 4 million out of a total Portuguese population of 10 million now resided abroad, but no statistics were available on how many of them were working.

12. Lastly, figures on employment, rather than unemployment, had been provided in response to the French language version of number 14 of the list of issues, which differed from the English version.

13. Ms. FIGUEIREDO (Portugal) said that measures to promote flexibility and improve employment opportunities had been introduced within a framework of social dialogue. Concerning the broadening of the range of tasks that workers could perform within their skills category and remuneration level and variations in annual working schedules, the legislative framework had been expanded in full consultation with labour. When the application or interpretation of the legislation had given rise to disagreement, expert opinion had been sought. As to the preparation of the Portuguese labour market for globalization, there had been a discussion at the recent European Union Lisbon Summit on upgrading skills through training in new technologies.

14. Unemployment had steadily decreased as a consequence of economic growth and the adoption of active employment policy measures. From 7.3 per cent in 1996, it had fallen to 6.7 per cent in 1997, 5 per cent in 1998 and 4.5 per cent in 1999. Of that 4.5 per cent, men accounted for 4 per cent and women for 0.5 per cent; while long-term unemployment represented 37.6 per cent of the total figure: 36 per cent for men and 39 per cent for women, mostly in the 15 to 44 age group.

15. Of the measures recently adopted to promote continued reductions in unemployment, Decree-Law No. 190 of 14 April 1999 provided that the total amount of unemployment benefits could be paid as a lump sum when the beneficiary was enrolled in a self-employment project. Within certain limits, unemployment benefits could also be drawn in combination with part-time job remuneration. New measures were available to support young enterpreneurs under the European Union support arrangements.

16. Ms. BRÁS GOMES (Portugal) said that the Social Employment Market referred to in the written replies comprised a number of measures undertaken by non-profit institutions to provide opportunities for people who, owing to their lack of academic qualifications and professional skills, would have difficulty in competing in a normal market relationship. Non-profit institutions were by far the largest providers of social services in Portugal, and were heavily supported by the State. The aim of the "integration enterprises" - themselves non-profit institutions - was to provide opportunities for groups such as the long-term unemployed or persons receiving the minimum guaranteed income to find a sustainable income and a way out of poverty and social exclusion by developing personal, social and occupational skills that would later enable them to compete in the normal labour market. Each worker admitted to such an enterprise was provided with an individual integration programme. In order to qualify as an integration enterprise, an establishment must have between 5 and 20 workers involved in a social integration programme. The measure had been introduced as recently as 1998, but in that year 67 projects involving 555 persons had been approved. The activities undertaken were mostly community services. In 1999, 308 new enterprises had catered for 2,640 long-term unemployed or disadvantaged persons. Social integration enterprises had an important twofold role: to provide integration opportunities for unemployed persons; and to meet the needs of various target groups - such as children, the elderly, and disabled persons - that were not adequately covered by the normal operation of the market.

17. Ms. FIGUEIREDO (Portugal), replying to questions on child labour, said that steps had recently been taken to extend the period of compulsory schooling and that the age for entry into the labour market had been raised to 16 years. Children under 16 were allowed to perform only "light" tasks, after having completed the period of compulsory schooling and on the basis of a restricted work schedule. Breaches persisted, however, and labour inspectorates were making greater efforts to enforce the law, especially in the north.

18. Mr. DOS SANTOS PAIS (Portugal) said his country had been one of the few in Europe to acknowledge openly that problems that existed with regard to child labour. There were three districts where child labour remained a problem. Following concerted action between the Government and relevant NGOs, the incidence of child labour had now been greatly reduced,

though in some cases it appeared that it was being continued surreptitiously as labour in the home, for example in the shoe industry. It was difficult for the labour inspectorate to tackle that problem, although relevant information was immediately acted upon.

19. Ms. ALBUQUERQUE (Portugal) said that Portugal had ratified ILO Convention No. 138: Minimum Age, 1973, and was currently in the process of ratifying Convention No.182: Worst Forms of Child Labour, 1999. Article 152 of the Criminal Code expressly prohibited the ill-treatment and exploitation of minors and imposed a sentence of one to five years' imprisonment for such offences.

20. According to statistics compiled by the General Labour Inspectorate, 80 per cent of all child labour was concentrated in three districts. Since the extension of compulsory schooling, a trend towards children's starting to work at a later age could be observed: fewer 10-to-12-year-olds were entering the labour market. In the period 1993 to 1995, 65 per cent of all working minors had already completed their compulsory schooling. Between 1990 to 1996 there had been a drastic reduction in the number of working children.

21. Mr. DOS SANTOS PAIS (Portugal) said that the Portuguese Government was trying to address the problem of vocational training, and had allocated considerable budgetary resources to training, not only for young people but also for the elderly and the long-term unemployed. Portugal had also targeted an initiative on adults unemployed for less than 12 months. It was keen to provide people with new skills to enable them to cope with technological innovation in enterprises.

22. Ms. VARZIELAS (Portugal) said that employment could be terminated either through early retirement or through retirement at the statutory age, which was 65 for both men and women. However, it was possible to continue working after the age of 65. There had been cases in the past of enterprises imposing early retirement on employees because of insolvency. However, such measures were currently being called into question throughout western Europe. Nevertheless, it should be said that Portugal had a higher percentage of actively employed persons over 64 years of age than the rest of Europe. According to EUROSTAT, that group accounted for 25 per cent of the working population, as against a European average of 6.5 per cent.

23. The high proportion of older people still actively employed was attributable to the flexibility exercised by the Government in respect of the age of retirement. Decree-Law No. 999, passed in January 1999, had established the statutory retirement age at 65 for both men and women but made it possible for employees with at least 30 years' social security contributions to their credit to apply for retirement at 55, in which case they would be penalized for each year not worked before the age of 65. Alternatively, employees could request permission to continue working after the age of 65, which would earn them a bonus for each additional year worked up to the age of 70.

24. Mr. RIEDEL said that the European Committee of Social Rights, in handing down its decision in the case brought against Portugal by the International Commission of Jurists in 1998, had pointed out that "light work" could no longer be considered light if it was carried on for excessively long periods, namely, 20 to 25 hours per week during the school term, 3 hours per

day on school days, or 6 to 8 hours per day during vacations in the case of a child under 15; that would constitute a violation of the European Social Charter, and also of the Covenant. Although the State party was to be commended for its efforts to combat child labour, when the time came for it to submit its next report, the Committee would appreciate more concrete replies and indications of benchmarks used for the various categories of child labour, especially in the construction and tourist industries, in order better to assess the State party's progress in that regard. It was not enough to devise strategies; results had to be examined so as to determine whether the objectives set had been realistic.

25. Mr. ANTANOVICH said it had been reported that Portuguese workers had very little bargaining power because of the lack of trade union clout and job insecurity. Apparently Portugal paid some of the lowest wages in the European Union, in spite of the strong wage growth registered since accession, and there was still a wide gap between men's and women's wages. The Committee of Independent Experts of the European Social Charter had noted with concern that the Portuguese gender wage gap had not narrowed since 1985. How did the Government intend to deal with the problem and why was the gap being closed so slowly in spite of the economic growth of the past five years?

26. Mr. AHMED, noting that the minimum wage was fixed by the Government, rather than through collective bargaining, and that only 9.2 per cent of the workforce earned that wage, inquired about the income level of other workers.

27. Mr. DOS SANTOS PAIS (Portugal), replying to Mr. Riedel's question on child labour, said that the figures were now falling to more acceptable levels; compulsory education not only prevented children from entering the labour market but also equipped them with skills, thus avoiding their exploitation as unskilled labour. Concerning the wage gap between men and women, the Constitution and new legislation laid down measures aimed at correcting the imbalance, but the State party was aware of some unresolved cases in the private sector. As for the low wage levels recorded, it should be remembered that Portugal had been a small economy prior to its accession to the European Union and that the transition had brought certain adjustment problems. However, employers and trade unions were negotiating to increase wages so as to bring them gradually into line with those of other European countries.

28. A mere 9.2 per cent of workers earned the statutory minimum wage. All other workers earned more - some far more - than the minimum wage. By contrast, the "minimum income" was supplementary income provided by the Government to unemployed persons not earning the minimum wage, subject to certain conditions, such as attendance of training courses to facilitate their re-entry into the job market.

29. Ms. FIGUEIREDO (Portugal) said that collective bargaining took various forms; an employer and a trade union could decide on the minimum wage for an entire sector, or one or more trade unions and the employer could set the minimum wage for one particular enterprise. The statutory minimum wage was determined through consultations with the social partners. It served merely as a guideline, and was adjusted annually so as to outpace inflation.

30. Mr. WIMER ZAMBRANO said that the Committee of Independent Experts of the European Social Charter had found Portugal to be in breach of the European Social Charter in

respect of paid public holidays and the quality of labour inspection. Portuguese enterprises with more than 10 employees awarded workers compensatory leave equivalent to only 25 per cent of the hours they worked on public holidays, rather than the 100 per cent laid down by the Charter; and the high incidence of accidents at the workplace seemed to point to poor labour inspection. Both situations also constituted violations of article 7 of the Covenant.

31. Mr. DOS SANTOS PAIS (Portugal) said that the number of industrial accidents had fallen, although it was admittedly still high. Inspections had increased over the last few years, but more steps needed to be taken to address the concerns raised by the Committee on Independent Experts.

32. Ms. FIGUEIREDO (Portugal) said that there had been extensive training of labour inspectors, who had been familiarized with recent legislation so as to equip them to do their job more effectively.

33. The CHAIRPERSON invited members to put supplementary questions on articles 9 and 10.

34. Mr. RIEDEL, noting the disparity between paragraphs 293 and 297 of the report (E/1994/104/Add.20), asked about the outcome of the Social Security White Paper Board proposals and the status of the draft legislation. He would welcome explanations of the background to the Decree-Law setting time limits for employers to notify social security agencies of the hiring of new workers. It would also be interesting to know the current status of labour legislation governing the employment of non-nationals, as, to judge from the written reply to question 17 of the Committee's list of issues (E/C.12/Q/POR/1), Portugal seemed to operate on the principle of reciprocity in that area, which was usually ineffectual because of differences in standards between countries.

35. He also wished to know whether illegal immigrants were guaranteed a minimum level of subsistence. Lastly, in connection with the written reply to number 19 of the list of issues and bearing in mind the Europe-wide problem of aging populations and the funding implications for pensions, did the Government plan to tackle the problem through the use of private insurance, State pensions, or a combination of both?

36. Mr. HUNT, while welcoming the commendable measures taken to combat domestic violence outlined in the written reply to number 23 of the list of issues, pointed out that no data had been provided on the extent of the problem, or on the legal powers of the courts to judge such cases. He would like to know the root causes of domestic violence in Portugal, as, although the problem was universal the underlying factors differed from country to country. Lastly, he asked whether domestic violence against children was widespread, and if so, what measures the State party had taken to combat it.

37. Mr. GRISSA, recalling that before Portugal's accession to the European Union most of the workforce had not enjoyed social security coverage, wondered about the current level of coverage, especially for workers who had not been able to make sufficient contributions to qualify for a retirement pension. When had social security coverage been made compulsory?

38. Mrs. JIMÉNEZ BUTRAGUEÑO said she shared the concerns just expressed by Mr. Riedel and Mr. Grissa, and would expect Portugal's next report to the Committee to contain far more extensive information on social security provision, reflecting progress in the implementation of recommendations made by the Social Security White Paper Board. In its gradual reform of the social security system, the Portuguese authorities might be well advised to bear in mind paragraph 9 of the Committee's General Comment No. 3, which, in referring to States' "progressive realization" of the rights recognized under the Covenant, stated that "... any deliberately retrogressive measures [...] would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources". In that regard, the maintenance of acquired rights was an issue of paramount importance.

39. Citing a recent case in her own village in Spain, in which an 84-year-old man had been sent to prison for killing his wife, having been unable to cope with her Alzheimer's disease, she also asked what assistance was provided for families in which an elderly person had to be cared for.

40. Mr. WIMER ZAMBRANO, noting that there seemed to be an increase in paedophilia, child pornography and trafficking in women in Portugal, asked what was the reaction of the Government and society at large to such problems.

41. Ms. VARZIELAS (Portugal), replying to members' questions and concerns about social security, said that a number of important interim measures had been introduced as a result of studies carried out by the White Paper Board. First, the Decree-Law of 30 September 1999 required all those engaged in voluntary work in Portugal to join a social assistance scheme for volunteers. Also in 1999, additional dependency allowances paid in cash had been introduced for those receiving invalidity, old age and survivor pensions. They were payable under both the general and the non-contributory schemes, and were indexed to the value of social security benefits. The level of allowances varied with the level of dependence, and consideration was currently being given to increasing the higher level.

42. As to insurance coverage in respect of industrial injuries, under a framework law adopted in 1997 and implemented in 1999, all self-employed workers were now required to take out private insurance against industrial injuries and occupational diseases. Workers whose employers became insolvent or who could not fulfil all the necessary conditions could receive assistance through a special fund financed from the contributions of the life insurers and the premiums paid by members. Benefits in respect of occupational diseases came under the social security system. Once again, a back-up fund existed, but self-employed workers joined the scheme on a voluntary basis.

43. New social security legislation enabled unemployed persons who obtained part-time work to continue to receive unemployment benefit, adjusted in accordance with the number of hours worked.

44. Under Decree-Law No. 341 of 25 August 1999, the family allowance was now payable after payment of only one day's contributions, rather than of six months' contributions, as had previously been the case. With regard to notification of new employment, the regulations stated

that the employer and employee must declare the presence of a new worker to the Department of Social Security within one month of the commencement of work. Since that regulation had been approved as recently as 1999, no data were yet available to indicate how successful the social security inspectorate had been in enforcing it.

45. The matter of foreign and Portuguese workers' right to social security was regulated by Framework Law No. 24 of 14 August 1984, which was still in force, although it would soon be superseded by a new framework law adopted in 2000. Both laws required all workers, irrespective of nationality, to contribute to the social security system. In accordance with the principles of equality that underlay both the old and new social security systems, a foreign worker who fulfilled the social security requirements in Portugal enjoyed the same rights as Portuguese workers in a similar situation, whether or not those rights were recognized in the foreign worker's country of origin. However, once a non-national worker returned home, the maintenance of his acquired rights was conditional upon the signing of a reciprocity agreement between Portugal and his country of origin. The delegation would be pleased to provide the Committee with a list of the many bilateral and multilateral reciprocity agreements that Portugal had signed with other countries.

46. Concerning the threat to the stability of the Portuguese social security system posed by the growing number of retirees and the dwindling number of working contributors, her Government had concluded that, even in the unlikely event of a resurgence in employment, Portugal would experience problems in financing its pension system over the next 15 years. The Government had calculated that payments to the elderly would account for 74 per cent of the social services budget by the end of 2001. A number of other measures had already been taken in addition to those being studied by the White Paper Board. Thus, the reserve fund set up in the early 1990s had been replaced, under a Decree-Law of 4 November 1999, by an institute responsible for managing a new capitalization fund covering all social security payments. The new institute already had funds equivalent to 3 per cent of Portugal's GDP, and would have assets totalling 75 billion escudos by the end of 2001, 50 per cent of which would be allocated to pensions. The decree-law also authorized the institute to manage other capitalization funds for the purpose of maintaining the financial equilibrium of the social security system. As a result of measures introduced recently, social security resources were now managed more strictly and levels of fraud and evasion had decreased significantly.

47. Following extensive national debate of proposals submitted by the Social Security White Paper Board, the National Assembly had finally approved a new Framework Law on Social Security, Law No. 17/2000 of 8 August, due to enter into force in February 2001 to supersede Framework Law 28/1984. The Council of Ministers had very recently set up a national commission empowered to issue decrees relating to implementation of the new framework law, which would also examine thoroughly all the measures proposed, with a view to introducing them gradually.

48. The main principles of the new framework law, which built on the old one, were: the primacy of the State's responsibility to create the conditions needed to ensure full realization of the right to social security, applying equal treatment where situations were equal, and differentiating where situations were not equal; differentiating positively in favour of high-risk

populations, by granting additional resources to those in greatest need; and eliminating the causes of marginalization and social exclusion, thereby ensuring all citizens' integration into social life.

49. The first pillar of the social protection arrangements provided for under the new Framework Law comprised three sub-systems. One sub-system covered families or individuals with few or no economic means, those on the minimum wage or who had paid insufficient contributions to other regimes. The sub-system also provided for social welfare measures designed to prevent and eradicate poverty and social exclusion. The second sub-system covered family protection, providing compensation for costs incurred by families in looking after disabled dependants. The third, social insurance, sub-system provided for benefits in the event of illness, unemployment, maternity, industrial injury, occupational disease, invalidity, old age and death. The first two sub-systems covered the entire population, regardless of nationality. The third covered employed and self-employed persons, also without regard to nationality. Workers received graduated pensions based on lifetime contributions, and retained their rights acquired under the old system.

50. The first sub-system and family protection benefits under the second sub-system were funded by the State out of tax revenues. The social insurance sub-system was funded from contributions made by employers and employees. The new Framework Law provided that between 2 and 4 per cent of all employees' contributions must be paid into a capitalization fund designed to protect future payments.

51. The new Framework Law also provided for the possible introduction of supplementary public social security schemes, under a second pillar of the new arrangements. The White Paper Board was examining the issue, and in particular the possible introduction of a ceiling on contributions. The Framework Law also made provision for the development of a third pillar in the form of private pension schemes to complement the existing arrangements under the third sub-system.

52. Lastly, on the question of minimum and maximum pensions, the Framework Law obliged the Government to maintain a minimum non-contributory pension until 2003. In the absence of a maximum pension, provision existed for pensions to be differentiated according to income.

53. Ms. TAVARES DA SILVA (Portugal) said that the authorities had devised a Plan to Combat Domestic Violence, attesting to the high priority assigned it by the Government Programme. The Plan's goals were awareness-raising and prevention, intervention, and research. A campaign, aimed mainly at young people, had been launched by the Portuguese Youth Institute with the cooperation of the new Commission on the Equality and Rights of Women (CIDM). That body held briefing sessions for schools, health professionals, police officers and, on occasion, magistrates. Similar activities were also conducted by some NGOs.

54. With regard to protection for victims of violence, Law No. 107/99 provided the legal framework for a network of shelters, although few had yet been established. A 24-hour telephone hotline was staffed by CIDM by day, and by an NGO, the Portuguese Association for

the Protection of Victims, at night. Reports emanating from studies and research provided an overall picture of the situation regarding violence against women, the places where it occurred most frequently - principally the home - and the main aggressors, usually the spouse or partner.

55. The causes of violence had not been thoroughly researched, but the figure of 16 per cent of violent acts attributable to drugs or alcohol consumption was a sizeable, under-estimate. Another cause was unemployment, although domestic violence was rife in all social strata. Psychological violence against women was more common in the upper social brackets, physical violence more common among the poorer sectors. The Government was undertaking a study of the social costs of violence, and one university had introduced the topic in its postgraduate programme. Eighty-one per cent of the victims of acts of violence reported in 1999 had been women, and 87 per cent of the aggressors men.

56. Mr. DOS SANTOS PAIS (Portugal) said that the Government was extremely disturbed at the high incidence of sexual exploitation of women. The phenomenon was linked to the Russian Mafia, which had infiltrated Portugal and used women as a means of subsistence. The authorities were well aware of the need to combat criminal associations of that type.

57. Ms. ALBUQUERQUE (Portugal) said that Decree-Law No. 98/98 had established the National Committee for the Protection of Children and Youth at Risk, which came under the Ministry of Justice and the Ministry of Labour and Solidarity and was responsible for planning, coordination, and follow-up. The Law concerning children at risk was based on the relevant principles of the Convention on the Rights of the Child. Article 3 of that Law was explicit: if the parent or legal guardian posed a threat to any aspect of the child's well-being, the Committee was required to intervene and provide the parents with support. Placement in a foster home or institution was a measure of last resort. Nationwide telephone hotlines for children, some of which were confidential, steered the child towards the relevant social services.

58. Regarding child pornography, paedophilia and child prostitution, not only did article 69 of the Portuguese Constitution lay down that children had the right to the State's and society's protection from all forms of ill-treatment, but the Portuguese Government was also taking action to combat those scourges, adopting domestic legislation and signing up to international treaty obligations. Custodial sentences were imposed on persons involved in such crimes, the length of the term varying with the age of the child. If the acts were performed for economic gain, the penalty was more severe, and even more so if the perpetrators had a child aged 14 to 18 in their charge. Decree-Law No. 98/98 was also an important text in that regard and explicitly regulated situations in which children were involved in pornography or activities that affected their health, education or development and their parents took no effective measures to remedy the situation.

59. The police, the judiciary and all public or private bodies dealing with children and young people were obliged to report any such cases to the local committees which, in turn, were required to intervene at the request of the child or parent or with their consent. The courts intervened only if that consent was not forthcoming. The 1998 revision of the Criminal Code provided for the prosecution of Portuguese citizens who trafficked in children or encouraged child prostitution. Moreover, at the recent Millennium Summit in New York the Prime Minister had signed the Optional Protocol to the Convention on the Rights of the Child concerning the

sale of children, child pornography and prostitution. One of the many measures the Government had taken to reduce vulnerability to commercial sexual exploitation was to encourage young people to continue their studies beyond the mandatory age.

60. Ms. BRÁS GOMES (Portugal) said that while it was no secret that illegal immigrants existed, that status did not deny them access to social services. Replying to Mrs. Jiménez Butragueño's question concerning the elderly, she recognized the great store older persons set by living in their own environment with all the support they could muster; accordingly, the conditions for the implementation and functioning of home-help services had been reviewed in 1999 and some improvements recommended. However, institutional care sometimes became a necessity, and programmes were under way to enhance both the quality and number of such residences.

61. The Programme for Older Persons in Residential Care (PILAR) encouraged non-profit institutions to increase the number of places in homes for the elderly and to develop new solutions such as short-term care. That programme had provided 9,300 new places since 1997. Similarly, the Programme to Support Private Social Initiatives (PAIPSS), scheduled to end in 2001, sought not only to increase the number of places, but also to provide new employment and professional training opportunities for persons working in those services.

62. The quality of such services was of the utmost importance. Accordingly, the initial aims of the new Avô ("Grandfather") Plan were to evaluate progress, identify and locate older persons, and organize services. The final target was to develop a process for quality certification of existing institutions, in cooperation with the Portuguese Institute for Quality. Progress towards that target would be reported in the country's fourth periodic report.

63. Regarding services for dependent persons, two measures had been implemented. Under the first, since 1997 recipients of the various pensions under the general social security scheme had been entitled to a supplementary dependency benefit. As already mentioned, two degrees of dependency were taken into account, and the legislation was being revised with a view to increasing the benefit for the most severely dependent. The second measure, undertaken jointly by the Ministry of Health and the Ministry of Labour and Solidarity, was the development of the Integrated Intervention Model for Social Support and Health Care for Dependent Persons. The objective was to improve dependent persons' living conditions and assist their families. Two types of service were being developed: small units providing residential care for disabled and elderly persons and psychiatric patients; and integrated services, provided by multidisciplinary teams, combining home help with a social and health-care component. Although it was a two-year experimental scheme, regional and subregional plans were afoot to transform it into a permanent and effective system.

64. In connection with Mrs. Jiménez Butragueño's reference to an incident in her own village, she stressed the special attention paid to particularly difficult situations in certain geographical areas. For instance, in Alentejo, a region with an ageing population, a two-year pilot Help Network had been created in 1999 to increase home-help services for dependent persons and ease the burden on carers.

65. Mr. GRISSA said that while all countries possessed legislation to prevent child abuse, the phenomenon still persisted. Laws were all very well, but his question concerning the problems encountered in their enforcement had still not been answered.

66. Mr. WIMER ZAMBRANO pointed out an anomaly between written reply No. 22.3 to number 22 of the list of issues and the statement in the report concerning the dismissal of pregnant women, which conflicted with article 10, paragraph 2, of the Convention. Could the delegation clarify the implication that although Law No. 322/95 provided for a general prohibition on such dismissals, they were still legally possible?

67. Mr. DOS SANTOS PAIS (Portugal) said that the problem was the result of a typographical error and that there was indeed a general prohibition on the dismissal of pregnant women.

68. Ms. FIGUEIREDO (Portugal), citing a series of laws and decree-laws and the Constitution, said that pregnant women could be dismissed only on the basis of misconduct. Dismissal was presumed to be unfair unless proven otherwise. If it was found to be unfair, the employer must pay the victim compensation, as well as reinstate her. In the event of failure to comply with the latter requirement, the amount of compensation payable was doubled. Employers were required not only to comply with the law concerning termination of contract, but also to receive the approval of the Commission on Termination of Employment, which considered the employer's views in the presence of a representative of the employee.

69. Either party could seek redress in the courts if the decision went against it. The courts would always grant a suspension of the dismissal order unless the judge was convinced that the employee's behaviour had warranted dismissal, and would enforce the payment of the employee's salary pending the final ruling. If the employer did not comply, the penalty would be increased.

70. Mr. WIMER ZAMBRANO reiterated his request for clarification of the apparent contradiction in paragraph 22 of the written replies to the list of issues, regarding the dismissal of pregnant women.

71. Ms. FIGUEIREDO (Portugal) said that dismissal was prohibited unless there was due justification, which must be recognized by law. The prevailing factor in such cases was usually the seriousness of the alleged misconduct. The law was intended to protect pregnant women and to make it more difficult to dismiss them.

The meeting rose at 6 p.m.